

Notice of Allowability

Application No.

10/731,448

Applicant(s)

JOHNSON ET AL.

Examiner

Charanjit S. Aulakh

Art Unit

1625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

If claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

☒ This communication is responsive to Paper filed on June 01, 2004.

☒ The allowed claim(s) is/are 1,2,5-9 and 12-15.

☐ The drawings filed on _____ are accepted by the Examiner.

☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some* c) ☐ None of the:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.

(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.

(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

☐ Notice of References Cited (PTO-892)

☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 10

☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material

5. ☐ Notice of Informal Patent Application (PTO-152)

6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 06/29/04.

7. ☒ Examiner's Amendment/Comment

8. ☒ Examiner's Statement of Reasons for Allowance

9. ☐ Other _____.

Charanjit S. Aulakh
Primary Examiner
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DETAILED ACTION

1. According to paper filed on June 01, 2004, the applicants have elected group I with traverse in response to restriction requirement.

Response to Arguments

2. Applicant's arguments filed on June 01, 2004 regarding restriction requirement have been fully considered but they are not persuasive. The examiner does not agree with the applicant's arguments that searching all five groups will not be burdensome. First of all, variable Z is critical for the common core of the instant compounds. Secondly, the compounds of five different groups are classified in different subclasses of classes 546, 548, 549 and 544 based on the value of variable Z and therefore, does constitute a burdensome search. Thus, restriction requirement as indicated is proper and thereby made final.

3. Claims 1, 2, 5-9 and 12-15 are now pending in the application.

EXAMINER'S AMENDMENT

4. The following amendment is pursuant to a telephone conversation with the applicant's attorney, Mr. Gabor L. Szekeres on June 29, 2004. The following changes have been made in claims.

In claim 1, for the value of variable Z, delete -----N=CR1-, -CR1=N-, -NR1-CO, -NR1-CS, -COO-, -OCO-, -CSO- and -OCS- -----in order to delete non-elected subject matter.

In claim 1, definition of variable R15, line 2, after COOR8, insert --- , ----.

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In claim 15, line 1, after claim 9, delete ---wher--- and insert ---where ---.

REASONS FOR ALLOWANCE

5. The following is an examiner's statement of reasons for allowance:

Claims 1, 2, 5-9 and 12-15, renumbered as 1-11, are allowed since the instant compounds directed to the elected group are neither disclosed nor obvious over the prior art. In the prior art, Klein (U.S. Patent no. 5,776,699, cited on applicant's form 1449) discloses compounds of formulae 2 and 3 where Z represents $-N=N-$ (see compounds 46a and 46b in table 1 in columns 13-15) which are closely related to the instant compounds. However, these two exemplified compounds of Klein differ from the instant compounds in having a phenyl group attached to variable Z instead of a heteroaryl group (variable Y in instant compounds) and furthermore, there is no motivation in the prior art to modify the compounds of Klein to prepare the instant compounds.

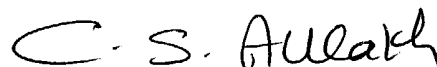
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charanjit S. Aulakh whose telephone number is (571)272-0678. The examiner can normally be reached on Monday through Friday, 8:30 A.M. to 5:00 P.M..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on (571)272-0699. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Charanjit S. Aulakh
Primary Examiner
Art Unit 1625